



8011-01p
SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From
Securities and Exchange Commission
Office of FOIA Services
100 F Street, NE
Washington, DC 20549-2736

Extension: Rule 10f-3

SEC File No. 270-237, OMB Control No. 3235-0226

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension and approval of the collections of information discussed below.

Section 10(f) of the Investment Company Act of 1940 (15 U.S.C. 80a) (the "Act") prohibits a registered investment company ("fund") from purchasing any security during an underwriting or selling syndicate if the fund has certain relationships with a principal underwriter for the security. Congress enacted this provision in 1940 to protect funds and their shareholders by preventing underwriters from "dumping" unmarketable securities on affiliated funds.

Rule 10f-3 (17 CFR 270.10f-3) permits a fund to engage in a securities transaction that otherwise would violate section 10(f) if, among other things: (i) the fund's directors have approved procedures for purchases made in reliance on the rule, regularly review fund purchases to determine whether they comply with these procedures, and approve necessary changes to the procedures; and (ii) a written record of each transaction effected under the rule is maintained for six years, the first two of which

in an easily accessible place. The written record must state: (i) from whom the securities were acquired; (ii) the identity of the underwriting syndicate's members; (iii) the terms of the transactions; and (iv) the information or materials on which the fund's board of directors has determined that the purchases were made in compliance with procedures established by the board.

The rule also conditionally allows managed portions of fund portfolios to purchase securities offered in otherwise off-limits primary offerings. To qualify for this exemption, rule 10f-3 requires that the subadviser that is advising the purchaser be contractually prohibited from providing investment advice to any other portion of the fund's portfolio and consulting with any other of the fund's advisers that is a principal underwriter or affiliated person of a principal underwriter concerning the fund's securities transactions.

These requirements provide a mechanism for fund boards to oversee compliance with the rule. The required recordkeeping facilitates the Commission staff's review of rule 10f-3 transactions during routine fund inspections and, when necessary, in connection with enforcement actions.

The staff estimates that approximately 236 funds engage in a total of approximately 2,928 rule 10f-3 transactions each year.¹ Rule 10f-3 requires that the purchasing fund create a written record of each transaction that includes, among other things, from whom the securities were purchased and the terms of the transaction. The

¹ These estimates are based on staff extrapolations from filings with the Commission.

staff estimates² that it takes an average fund approximately 30 minutes per transaction and approximately 1,464 hours³ in the aggregate to comply with this portion of the rule.

The funds also must maintain and preserve these transactional records in accordance with the rule's recordkeeping requirement, and the staff estimates that it takes a fund approximately 20 minutes per transaction and that annually, in the aggregate, funds spend approximately 976 hours⁴ to comply with this portion of the rule.

In addition, fund boards must, no less than quarterly, examine each of these transactions to ensure that they comply with the fund's policies and procedures. The information or materials upon which the board relied to come to this determination also must be maintained and the staff estimates that it takes a fund 1 hour per quarter and, in the aggregate, approximately 944 hours⁵ annually to comply with this rule requirement.

The staff estimates that reviewing and revising as needed written procedures for rule 10f-3 transactions takes, on average for each fund, two hours of a compliance attorney's time per year.⁶ Thus, annually, in the aggregate, the staff estimates that funds spend a total of approximately 472 hours⁷ on monitoring and revising rule 10f-3 procedures.

² Unless stated otherwise, the information collection burden estimates are based on conversations between the staff and representatives of funds.

³ This estimate is based on the following calculation: (0.5 hours x 2,928 = 1,464 hours).

⁴ This estimate is based on the following calculations: (20 minutes x 2,928 transactions = 58,560 minutes; 58,560 minutes / 60 = 976 hours).

⁵ This estimate is based on the following calculation: (1 hour per quarter x 4 quarters x 236 funds = 944 hours).

⁶ These averages take into account the fact that in most years, fund attorneys and boards spend little or no time modifying procedures and in other years, they spend significant time doing so.

⁷ This estimate is based on the following calculation: (236 funds x 2 hours = 472 hours).

Based on an analysis of fund filings, the staff estimates that approximately 299 fund portfolios enter into subadvisory agreements each year.⁸ Based on discussions with industry representatives, the staff estimates that it will require approximately 3 attorney hours to draft and execute additional clauses in new subadvisory contracts in order for funds and subadvisers to be able to rely on the exemptions in rule 10f-3. Because these additional clauses are identical to the clauses that a fund would need to insert in their subadvisory contracts to rely on rules 12d3-1, 17a-10, and 17e-1, and because we believe that funds that use one such rule generally use all of these rules, we apportion this 3 hour time burden equally to all four rules. Therefore, we estimate that the burden allocated to rule 10f-3 for this contract change would be 0.75 hours.⁹ Assuming that all 299 funds that enter into new subadvisory contracts each year make the modification to their contract required by the rule, we estimate that the rule's contract modification requirement will result in 224 burden hours annually.¹⁰

The staff estimates, therefore, that rule 10f-3 imposes an information collection burden of 4,080 hours.¹¹

The collection of information required by rule 10f-3 is necessary to obtain the benefits of the rule. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

⁸ Based on information in Commission filings, we estimate that 38 percent of funds are advised by subadvisers.

⁹ This estimate is based on the following calculation (3 hours ÷ 4 rules = .75 hours).

¹⁰ These estimates are based on the following calculations: (0.75 hours × 299 portfolios = 224 burden hours).

¹¹ This estimate is based on the following calculation: (1,464 hours + 976 hours + 944 hours + 472 + 244 hours = 4,080 total burden hours).

The public may view the background documentation for this information collection at the following website, www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to: Shagufta_Ahmed@omb.eop.gov; and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street, NE, Washington, DC 20549 or send an email to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 3, 2018.

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018-21832 Filed: 10/5/2018 8:45 am; Publication Date: 10/9/2018]